

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 6, 2003**

**IN RE:**

**PETITION FOR APPROVAL OF RESALE  
AGREEMENT AND AMENDMENT  
THERE TO BETWEEN BELL SOUTH  
TELECOMMUNICATIONS, INC. AND  
FAIR FINANCIAL, L.L.C. D/B/A MIDSTATE  
TELECOMMUNICATIONS**

**DOCKET NO.  
03-00499**

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**ORDER APPROVING  
RESALE AGREEMENT AND FIRST AMENDMENT**

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This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 21, 2003, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the resale agreement and first amendment thereto negotiated between BellSouth Telecommunications, Inc. and Fair Financial, L.L.C. d/b/a MidState Telecommunications, filed on September 4, 2003.

Based upon a review of the agreement and amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The agreement and amendment are in the public interest as they provide consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.

3) The agreement and amendment are not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the agreement and amendment are consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

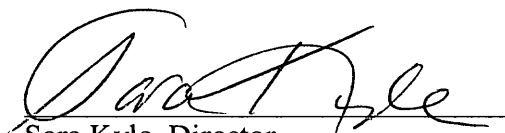
5) No person or entity has sought to intervene in this docket.

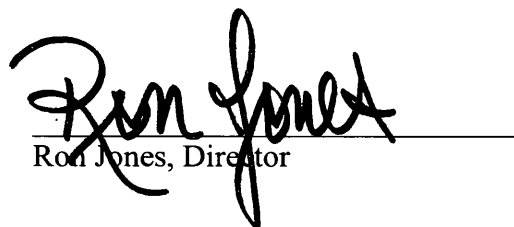
6) The agreement and amendment are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the resale agreement and first amendment thereto negotiated between BellSouth Telecommunications, Inc. and Fair Financial, L.L.C. d/b/a MidState Telecommunications are approved and are subject to the review of the Authority as provided herein.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director

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<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B).